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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/825,458

04/14/2004

Raney J. Schackne

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EXAMINER

MUSSELMAN, TIMOTHY A

ART UNIT

PAPER NUMBER

3714

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/825,458	<b>Applicant(s)</b> SCHACKNE ET AL.	
	<b>Examiner</b> Timothy Musselman	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/04,9/05</u> .   | 6) <input type="checkbox"/> Other: ____.                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 11-15 are rejected under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

**Regarding claim 11**, applicant claims first and second sides for coupling to a mannequin. Examiner cannot determine what applicant is intending to claim with this language (i.e. sides of what?). For the purposes of this office action, examiner will consider the claimed sides to be portions of the mannequin.

**Claims 12-15 are rejected for their incorporation of the above.**

**Regarding claim 13**, applicant claims "the apparatus comprises a generally disc shape having a first extension...". Examiner cannot determine the meaning of this statement. It is unclear whether applicant is intending to claim that the apparatus as a whole is generally disc shaped, or whether the apparatus comprises a generally disc shaped portion. If the later is the case, it is unclear what portion is being claimed as generally disc shaped. This limitation will not be considered until clarification is received in response to this action.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the relevant portion of 35 U.S.C. 102 that forms the basis for the rejections made in this section of the office action;

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States.

**Claims 11-12 and 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Rice (US 2,108,927).**

**Regarding claim 11**, Rice discloses a mannequin for displaying Garments comprising a first side coupled to a first portion of the mannequin, and a second side coupled to a second portion of the mannequin. See col. 1: 45 – col. 2: 20. Rice further discloses a transitional surface disposed between the first side and the second side, the outer surface forming a transition between the outer surfaces of the first and second sides. See col. 2: 40-46, and fig. 2, label 17.

**Regarding claim 12**, Rice further discloses wherein the transitional outer surface is curved. See fig. 2, label 17.

**Regarding claims 14 and 15**, Rice further discloses wherein the attachable sides of the mannequins have different clothing sizes and wherein the sides represent an upper and lower half of a human being. See col. 1: 1-5, and fig. 2. Note the upper and lower attachments of fig 2 (i.e. the abdomen and chest area and the legs). They have different clothing sizes because the sizes for those portions of a body are of different scales (i.e. skirt size versus shirt size).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of the relevant portion of 35 U.S.C. 103 that forms the basis for the rejections made in this section of the office action;

(a) A patent may not be obtained though the invention is not identically disclosed or

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described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

**Claims 1-4 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lennon (US 6,624,843) in view of Reid (US 2,665,040).**

**Regarding claim 1**, Lennon discloses a method for displaying clothes as they would appear on a potential customer comprising storing in a photo image database a plurality of clothing photo images displaying garments of various sizes as worn. See col. 5: 7-17. Lennon further discloses storing in a model database a plurality of model images of a plurality of models, each having sizes corresponding to the sizes of the garments in the previously described clothing image database. See col. 7: 5-20, and col. 8: 67 – col. 9: 5. Note that the customers are the models in this instance. Lennon further discloses using the stored photo images and the stored model images to generate a combined image that includes a clothing image of a predetermined size on a model image with the predetermined size. See col. 4: 24-31. Lennon fails to teach wherein the clothing images are images of the clothing displayed on *mannequins*, and additionally fails to explicitly teach of clothing items of various sizes on a single display. However, Reid discloses a mannequin device for displaying clothing items (plural) as they would appear on an individual considering a purchase of said items. See col. 1: 1-7. It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize a mannequin for displaying apparel as taught by Reid in the system of Lennon in order to reduce costs by eliminating the need to hire models, and to provide multiple clothing items in the manner of Reid for viewing on a single display so as to provide ensemble clothing previews for a user.

**Regarding claim 2**, Lennon further discloses wherein the clothing image database includes arranging the clothing items for display in an 'as worn' manner, so as to appear as if the clothing items are worn by a

person having the same clothing size as the clothing model. See col. 4: 24-31, and recall that the use of a mannequin as the clothing model is an obvious variation of Lennon in view of Reid as previously described.

**Regarding claim 3**, Lennon further discloses enabling selection and display of a composite image comprising at least one image of at least one selected clothing item from the 'as worn' clothing image database combined with at least one image of at least one section of a selected model image from the image database so the clothing item appears as worn by the model. See col. 4: 24-31.

**Regarding claim 4**, Lennon further discloses wherein the size of the clothing item corresponds to the size of the model. See col. 8: 67 – col. 9: 4.

**Regarding claims 7-8**, Lennon discloses a method comprising displaying clothing articles of various sizes on models, and combining the images with images of different human models wherein the portion of the combined image from the second group of human models comprises the head portion of the model combined with the as-worn clothing portion from the first set of models. See col. 4: 24-31. Lennon fails to teach of using mannequins for the first set of model images and also fails to teach of using different clothing sizes for different portions of the mannequin. However these are obvious variation of Lennon in view of Reid for the identical reasons and motivations set forth with respect to claim 1 above. Note that the teaching from Reid regarding the multiple clothing items encompasses a *third* item as per claim 8.

**Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lennon (US 6,624,843) in view of the Walt Disney World ride 'Carousel of Progress', [www.wdmagic.com/carousel.htm](http://www.wdmagic.com/carousel.htm).**

**Regarding claim 5**, Lennon discloses posing and photographing a plurality of models in various clothing items in front of various backgrounds. See col. 2: 20-28. Lennon fails to teach of the background images being on a carousel capable of rotation. However, the Disneyland ride 'Carousel of Progress' established

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in 1964 and currently operating at the Disney World resort in Orlando, Florida, teaches of using a carousel to shift backgrounds. See the article titled "Walt Disney's Carousel of Progress" from [www.wdmagic.com/carousel.htm](http://www.wdmagic.com/carousel.htm). It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the carousel based scene shifting from Disney in the system of Lennon, in order to quickly and conveniently shift background scenes for the mannequin images.

**Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lennon (US 6,624,843) in view of the Walt Disney World ride 'Carousel of Progress', [www.wdmagic.com/carousel.htm](http://www.wdmagic.com/carousel.htm), in further view of Reid (US 2,655,040).**

**Regarding claim 6**, Lennon/Disney disclose all of the features of parent claim 5 as described above. Lennon further discloses wherein the photo of the user and the photo of the model are taken in identical poses. See col. 4: 24-31. Lennon/Disney fail to teach wherein the clothing item is photographed on a *mannequin*. However, this is an obvious variation of Lennon/Disney in view of Reid for the identical reasons and motivations set forth with respect to claim 1 above.

**Regarding claim 6**, Lennon further discloses wherein taking the first and second photos of the model

**Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lennon (US 6,624,843) in view of Reid (US 2,665,040) and in further view of Feld et al. (US 2001/0026272).**

**Regarding claims 9-10**, Lennon/Reid disclose all of the features of parent claim 7 as described above. However, there is no teaching of displaying the items in a rotatable 3D manner, including a 180 degree mirror display (as per claim 10). However, Feld discloses a system for previewing clothing items that includes this feature. See paragraph 38. It would have been obvious to one of ordinary skill in the art at the time of the invention to enhance the display of Lennon/Reid with the 3D features of Feld, in order to allow the users to preview the clothing article from all angles.

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**Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rice (US 2,108,927) in view of Dusko (US 2,451,023).**

**Regarding claim 13**, Rice fails to teach of attaching the mannequin portion by use of extensions on the mannequin portions that extend into cavities on the receiving portions of the mannequin. However, Dusko discloses a mannequin that teaches of this feature. See fig 2, label 17, and note how the extension is utilized in figure 1. It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the attachment mechanisms of Dusko in the system of Rice, in order to accommodate simple and fast interchanging of mannequin parts.

**Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Petz (US 5,090,689) in view of Shepherd (US 2,934,341).**

**Regarding claim 16**, Petz discloses a device comprising a generally planar surface having an axis and a mechanism allowing the generally planar surface to rotate with respect to the axis, and a plurality of mounts on which to mount a plurality of models coupled to the surface, each mount being rotational with respect to the axis. See col. 1: 60-68. The limitation of posing the models with respect to the background reflects the intended use of the device, and will not patentably distinguish over the prior art. Additionally note that the backgrounds are merely whatever is behind the model at any given time, and will be slightly different for each mounted horse model. Petz fails to teach of each mount being capable of independent rotation. However, Shephard discloses an amusement park apparatus that consists of each model being capable of rotation around its own supporting axis. See col. 1: 35-41. It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the independent model rotation aspects of Shepherd in the system of Petz, in order to provide additional acceleration forces to the rider enhancing enjoyment of the ride.



**Claims 17-18 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lennon (US 6,624,843) in view of Reid (US 2,665,040) and in further view of Rom (US 6,307,568).**

**Regarding claim 17**, the features pertaining to the database with the as worn mannequin images are rejected as being unpatentable over Lennon in view of Reid for the identical reasons and motivations set forth above with respect to claim 1. Lennon further discloses a network interface to select an as-worn image of a selected clothing item according to clothing size data provided by the user via the network. See col. 4: 7-40, and col. 3: 43-46. Lennon/Reid fail to explicitly teach wherein the user selects the clothing item from a second generic clothing image database prior to receiving the as-worn image. However, Rom discloses a device for remote ordering and previewing of clothing that includes this feature. See col. 4: 63-66, and fig. 1, label 12. It would have been obvious to one of ordinary skill in the art at the time of the invention to include this feature from Rom in the system of Lennon/Reid, in order to allow the user to preview and select an item before the system has to perform the processing intensive image composition, thus reducing processing overhead.

**Regarding claim 18**, Lennon discloses a machine-readable medium comprising instructions to match a user's clothing fit data to a model image from a model image database. See col. 8: 67 – col. 9: 5 and col. 6: 60-65. Lennon further discloses receiving a command from the user to display a composite clothing image including at least one section of the model image and at least one section from an image database containing as worn images of the selected clothing item based on clothing fit data provided by the user. See col. 4: 24-31. Lennon further discloses receiving from the user a request to purchase the selected clothing item. See col. 9: 33-36. Lennon fails to teach of using a mannequin as a model for the as-worn images. However, this is an obvious variation of Lennon in view of Reid for the identical reasons and motivations set forth with respect to claim 1 as described above. Lennon further fails to explicitly teach of a catalogue for initial selection of the item, and of receiving a request by the user to purchase the selected item. However, the catalogue feature is an obvious variation of Lennon in view of Rom for the identical reasons and motivations described with respect to claim 17 above.

Regarding claim 20, Lennon further discloses wherein the user enters the relevant clothing fit data. See col. 7: 12-20.

Regarding claim 21, Lennon further discloses wherein the system provides instructions to display the composite image. See col. 4: 24-31.

Claims 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lennon (US 6,624,843) in view of Reid (US 2,665,040) and Rom (US 6,307,568), and in further view of Lee (US 6,661,433).

Regarding claim 19, Lennon/Reid/Rom disclose all of the features of parent claim 18 as described above, but fail to teach of creating composite images comprising various portions of models of various sizes. However, Lee discloses an item for electronically previewing as-worn clothing images that teaches of this feature. See col. 4: 13-16. It would have been obvious to one of ordinary skill in the art at the time of the invention to include this feature of Lee in the system of Lennon/Reid/Rom in order to allow for the previewing of multiple clothing items worn together as a unit.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy Musselman whose telephone number is (571)272-1814. The examiner can normally be reached on Mon-Thu 6:00AM - 4:30PM.

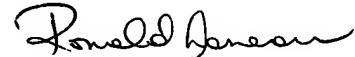
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571)272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Ronald Laneau  
Supervisory Patent Examiner  
Art Unit 3714

7/23/07